

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THOMAS LIBRETTI,

Plaintiff,

-against-

DEPARTMENT OF SANITATION (DSNY),

Defendant.

1:22-CV-10561 (LTS)

ORDER DIRECTING PAYMENT OF FEES
OR AMENDED IFP APPLICATION

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff brings this action *pro se*. To proceed with a civil action in this court, a plaintiff must either pay \$402 in fees – a \$350 filing fee plus a \$52 administrative fee – or, to request authorization to proceed without prepayment of fees, submit a completed and signed *in forma pauperis* (“IFP”) application. *See* 28 U.S.C. §§ 1914, 1915.

Plaintiff submitted an IFP application, but his responses do not establish that he is unable to pay the fees to bring this action. In his IFP application, he states that he is unemployed, but that in the past 12 months, he has received an unspecified amount of more than \$200 from a business, profession, or other self-employment. Plaintiff also states that his wife “is currently employed which helps with basic needs and essentials.” (ECF 1, at 2.) In response to a question asking how much money he has in a bank account, he responds by stating “NA.” (*Id.*) Plaintiff does not answer a question asking whether he owns any other assets (including any assets held in another person’s name) and if so, their values. As to his expenses, he states, without specifying their amounts, that he has “a monthly mortgage [payment], . . . two car payments, [and that he] pay[s] [for] gas, electric[ity], phone, and other utilities.” (*Id.*) With respect to his other financial obligations, Plaintiff states, again, without specifying their amounts, that his “credit card debts are being paid off with the minimum monthly payments.” (*Id.*) Accordingly, because Plaintiff has

not fully and clearly shown his current financial situation, the Court is unable to conclude that he is unable to pay the fees to bring this action.

Within 30 days of the date of this order, Plaintiff must either pay the \$402 in fees or complete, sign, and submit the attached amended IFP application. If Plaintiff submits the amended IFP application, it should be labeled with docket number 1:22-CV-10561 (LTS), and address the deficiencies described above by providing facts to establish that he is unable to pay the fees to bring this action. If the Court grants the amended IFP application, Plaintiff will be permitted to proceed without prepayment of fees. *See* § 1915(a)(1).

No summons shall issue at this time. If Plaintiff complies with this order, this action shall be processed in accordance with the procedures of the Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, this action will be dismissed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: December 20, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge